

FILED

AUG 28 2006

ADMINISTRATIVE HEARING
COMMISSION

BEFORE THE ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

W. DALE FINKE, Director)
Department of Insurance, Financial)
Institutions and Professional Registration,)
State of Missouri,)
)
Petitioner,)
v.)
Timothy L. Simmons,)
)
Respondent.)
)
Serve at:)
913 Sandy Lane)
Marshall, MO 65340)
)

CASE NO. 06-0803274C

COMPLAINT

W. Dale Finke, Director of the Department of Insurance, Financial Institutions, and Professional Registration for his Complaint against Respondent, Timothy L. Simmons, states as follows:

1. Petitioner is the Director of the Department of Insurance, Financial Institutions, and Professional Registration ("the Director") whose duties, pursuant to Chapters 374 and 375 of the Revised Statutes of Missouri, include the supervision and regulation of licensed insurance producers.

2. At all times mentioned herein, Respondent was a licensed insurance producer (license No. PR217865) in the State of Missouri. Respondent's insurance license expires on September 24, 2006.

3. This Commission has jurisdiction over this Complaint pursuant to § 621.045, RSMo (2000).

COUNT I

4. Petitioner re-alleges and expressly incorporates the allegations in paragraphs 1–3.

5. Respondent has used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere, a ground for discipline under § 375.141.1(8), RSMo (Cum. Supp. 2005).

6. The facts are as follows:

a. Several years ago David Copeland purchased a \$150,000 life insurance policy through Farm Bureau Life Insurance Company. (“Farm Bureau”) Respondent, who worked for Farm Bureau, was Copeland’s insurance producer.

b. Sometime in 2003, Respondent advised Copeland that Copeland could double the amount of his life insurance coverage, yet not increase his premium.

c. Based on this representation, Copeland soon thereafter purchased a \$250,000 life insurance policy through Farm Bureau in which Respondent acted as his producer. At or around the time the new policy was issued, Respondent directed Copeland to sign some paperwork. Copeland believed the paperwork was part of the exchange between the old policy and the new policy; therefore, he signed the form as directed by Respondent.

d. When Copeland signed the form there were no handwritten or typed words stating “Please take cash value from this policy and pay one year premium on policy 0221479” or any words or statements to that effect.

e. In May of 2004, Copeland received notice from Farm Bureau that the annual premium was due on the \$250,000 policy. Copeland, having previously been told by Respondent that he only needed to continue to make the premium payments per the terms of the \$150,000 policy, took the statement to Respondent's office for clarification.

f. Respondent told Copeland he would take care of the bill and asked Copeland to sign some paperwork which Copeland did. Soon thereafter Copeland received a "paid in full" notice from Farm Bureau.

g. Sometime in October of 2005, Copeland met with a manager of Farm Bureau to review his file. At this meeting Copeland discovered the blank forms Respondent had instructed him to sign were no longer blank; rather, someone had written on them requesting a loan against the cash value of the original \$150,000 policy.

h. Additionally, Copeland discovered the proceeds of the unauthorized loan had been used to pay the annual premium payments of the \$250,000 policy and the premiums he had continued to pay had been applied to the \$150,000 policy. As a result, Copeland had two life insurance policies.

i. On January 23, 2006, Farm Bureau notified the Department of Insurance that Copeland had filed a complaint against Respondent.

j. During the course of an investigation conducted by the Consumer Affairs Division of the Department of Insurance, Respondent admitted to a Department investigator that that he written the instructions to take the cash value of the \$150,000 policy to pay the annual premium of the \$250,000 policy.

k. Copeland never requested nor did he knowingly consent to the establishment of the loan to pay the annual premium of the \$250,000. Copeland never requested nor did he knowingly consent to the establishment of the loan for any reason.

7. As a result, sufficient grounds exist for disciplining Respondent's insurance license pursuant to § 375.141.1(8), RSMo (Cum. Supp. 2005).

COUNT II

8. Petitioner re-alleges and expressly incorporates the allegations in paragraphs 1–3.

9. Respondent has signed the name of another to an application for insurance, or to other documents related to the business of insurance, a ground for discipline under § 375.141.1(10), RSMo (Cum. Supp. 2005).

10. The facts are as follows:

a. Petitioner re-alleges and expressly incorporates the allegations in paragraph 6.

b. Sometime in May of 2005, Copeland received a bill from Farm Bureau which indicated payment of the annual premium for the \$250,000 policy was due.

c. On or about May 26, 2005, Copeland took the bill for the annual premium to Respondent's place of business as he had done previously. Respondent was not present at the office so Copeland left the paperwork at Respondent's place of business.

d. Sometime thereafter, Copeland met with a manager of Farm Bureau to review his file. At this meeting, an LU-535 form was discovered which was purportedly signed by Copeland and dated May 26, 2005. The signature closely resembled Copeland's however, the signature was in fact not his.

e. On January 23, 2006, Farm Bureau notified the Department of Insurance that Copeland had filed a complaint against Respondent.

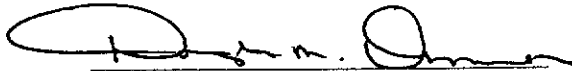
f. In a subsequent investigation conducted by the Consumer Affairs Division of the Department of Insurance, Respondent told a Consumer Affairs investigator that Respondent had met with Copeland on or about May 26, 2005 at a Farm Bureau office and that Copeland signed the LU-535 form.

g. Copeland did not sign any Farm Bureau documents on or about May 26, 2005. Specifically, Copeland did not meet with Respondent and he did not sign any documents on May 26, 2005. Furthermore, Copeland did not sign any LU-535 form after May of 2004.

11. As a result, sufficient grounds exist for disciplining Respondent's insurance license pursuant to § 375.141.1(10), RSMo (Cum. Supp. 2005).

WHEREAS, based on the foregoing, Petitioner respectfully requests that the Commission make findings of facts and conclusions of law stating that Petitioner has established cause to discipline the insurance license of Respondent.

Respectfully submitted,



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